

# REPORT

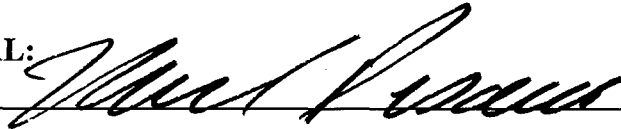
**DATE:** June 2, 2005

**TO:** Regional Council

**FROM:** Tonya Gorham, Government Affairs Analyst  
Phone: (213)236-1988 Email: [Gorham@scag.ca.gov](mailto:Gorham@scag.ca.gov)

**SUBJECT:** Senate Housing and Transportation Package

**EXECUTIVE DIRECTOR'S APPROVAL:**



**RECOMMENDED ACTION:** The CEHD Committee recommends a support position on three of the bills in the State Senate's Housing and Transportation package of bills, SB 832, SB 575, and SB 521. The committee recommends an oppose position on the fourth bill in the package, SB 44.

**SUMMARY:**

On February 23, 2005 Senate President pro Tem Don Perata (D-Oakland), along with the Senate Transportation and Housing Committee Chair Tom Torlakson (D-Antioch) and the Senate Environmental Quality Committee Chair Alan Lowenthal (D-Long Beach) unveiled a package of housing and transportation legislation. The bill package includes: SB 832 (Perata/Torlakson/Lowenthal) CEQA – Infill development; SB 575 (Torlakson) Housing Development Projects; SB 521 (Torlakson) Local Planning-Transit Oriented Development; and SB 44 (Kehoe) General Plans - Air Quality Elements.

The package of bills aims to combat sprawl, reduce traffic, maintain open space and farmland, and improve air quality in California. Staff originally recommended a "Support in concept" position for the package as a whole, but the committee opted to consider each bill separately recommending support positions on SB 832, SB 575, and SB 521. The committee recommends an oppose position on SB 44 due to concerns the bill is unnecessary and imposes another mandate on local governments. Currently only SB 575 has moved out of the Senate and is awaiting action in the Assembly, while SB 44 is on the Senate Floor and both SB 832 and SB 521 are in Senate Appropriations.

**BACKGROUND:**

The package of bills is intended to make it easier to build affordable housing close to jobs and transit, while also addressing quality of life issues concerning open spaces and air quality. The overall concept of the package as a whole is supported by the Southern California Compass Growth Vision Report – *The 2% Strategy: Shared Values, Shared Future* approved in June 2004. The report highlights that the region must examine land use and transportation as two parts of one important whole. The concepts of the bill package are also supported by SCAG's 2005 Legislative Program which specifically encourages the development of state incentives to promote urban infill development and outlines SCAG's support of legislative proposals to promote an increase in and the equitable distribution of affordable housing throughout the region. Also, both the Growth Vision Report and the Legislative Program support the concepts of transit villages and mixed-use and multi-modal development.

## SB 832 (Perata/Lowenthal/Torlakson) – CEQA: Infill Development

This bill would expand the current urban infill exemption under the California Environmental Quality Act (CEQA) for cities with more than 200,000 people. Existing law exempts residential projects located on infill sites and that meet certain criteria from CEQA. Currently the site of the project must not be more than 4 acres in total area and not contain more than 100 residential units. SB 832 would expand this CEQA exemption to sites up to 10 acres and with a maximum of 300 residential units in cities with more than 200,000 population. The California Apartment Association and the California Association of Council of Governments have recorded support positions for this bill.

## SB 575 (Torlakson/Ducheny/Dunn) – Housing Development Projects

SB 575 attempts to clarify the anti-NIMBY law relating to the approval of affordable housing projects. The bill requires a city or county to have met or exceeded its regional housing need for lower and moderate income housing before disapproving an affordable housing development based on lack of need. Existing law requires jurisdictions to make one of the following finding to disapprove an affordable housing project: the project is not needed to meet the jurisdictions share of regional housing needs for lower or moderate income households; the project would have an adverse impact on the public health or safety; the denial is required to comply with federal or state law; the project is located on agricultural or resource preservation land that does not have adequate water or water waste facilities; or the project is inconsistent with both the jurisdictions general plan land use and the zoning ordinance.

The co-sponsors of SB 575 include the California Apartment Association, the California Housing Council, the California Rural Legal Assistance Foundation and the Western Center for Law and Poverty. There is currently a list of more than 40 supporters of the legislation including several affordable housing advocates. To date there is no registered opposition.

## SB 521 (Torlakson) Local Planning-Transit Oriented Development

The bill attempts to further the policy objective of constructing more housing close to transit stations. Specifically the bill expands the geographic scope of a transit village development district to include parcels within one mile of a transit station or contiguous parcel equal to area covered by a mile radius from the exterior of the transit's parcel. In this expansion, the bill repeals the current requirement that housing in a transit village development plan must be within a mile of the exterior of the transit stations parcel. The San Francisco Bay Area Rapid Transit District, California Transit Association and the American Planning Association California Chapter support SB 521, with registered opposition from the County of Santa Clara.

## SB 44 (Kehoe) – General Plans: Air Quality Element

In 2003 the Legislature passed a law to require the Central Valley to include air quality strategies in each local agency's general plan to ensure that development patterns took into account air quality and public health. This legislation AB 170 (Reyes) was an effort to address the air pollution problems that often accompany urban and suburban sprawl. SB 44 (Kehoe) will require every county and city to

# REPORT

---

adopt either an air quality amendment or amend the appropriate elements of its general plan to improve air quality. The air quality element or amendment must include a report describing local quality conditions, goals and objective that may improve air quality and feasible implementation measures.

The bill, if passed, would require cities and counties to comply with requirements within a year of their next housing element revision after January 1, 2006. There are 12 organizations with registered support position. Some of the supporters of the bill include: the Attorney General; the American Lung Association; the South Coast Air Quality Management District (SCAQMD); the Coalition for Clean Air; the Sacramento Metropolitan Air Quality District; and the American Planning Association. To date those with a registered oppose position to the bill include: the City of Moreno Valley; the City of Lakewood; the City of Lake Forest; the California Building Industry Association, the California Chamber of Commerce; and the Department of Finance.

## **FISCAL IMPACT:**

All work related to adopting the recommended staff action is contained within the adopted FY 04/05 budget and adopted 2005 SCAG Legislative Program and does not require the allocation of any additional financial resources.

AMENDED IN SENATE MAY 4, 2005

**SENATE BILL**

**No. 832**

**Introduced by Senators Perata, Lowenthal, and Torlakson**  
(Coauthor: Assembly Member Laird)

February 22, 2005

An act to amend Section 21159.24 of the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 832, as amended, Perata. CEQA: infill development.

The existing California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect. Existing law exempts from CEQA a residential project located on an infill site within an urbanized area that meets specified criteria, including that the site of the project is not more than 4 acres in total area and the project does not contain more than 100 residential units.

This bill would provide an alternative to those criteria if the site is located in a city with a population of more than 200,000 persons ~~by increasing the exempted, the site size to is not more than 10 acres, and the maximum number of residential units to project does not have less than 200 or more than 300, respectively residential units, as determined adopted~~ by a resolution of the city council.

Vote: ☐ majority. Appropriation: ☐ no. Fiscal committee: ☐ yes.  
State ☐ mandated local program: ☐ no.

☐

*The people of the State of California do enact as follows:*

- 1 SECTION 1. ☐ The Legislature finds and declares that the state  
2 should provide incentives to promote infill development and  
3 smart growth in urban areas and should discourage urban sprawl  
4 and the resulting adverse transportation, housing, and  
5 environmental impacts.
- 6 SEC. 2. ☐ Section 21159.24 of the Public Resources Code is  
7 amended to read:
- 8 21159.24. ☐ (a) ☐ Except as provided in subdivision (b), this  
9 division does not apply to a project if all of the following criteria  
10 are met:
- 11 (1) ☐ The project is a residential project on an infill site.  
12 (2) ☐ The project is located within an urbanized area.  
13 (3) ☐ The project satisfies the criteria of Section 21159.21.  
14 (4) ☐ Within five years of the date that the application for the  
15 project is deemed complete pursuant to Section 65943 of the  
16 Government Code, community ☐ level environmental review was  
17 certified or adopted.
- 18 ~~(5) ☐ Either of the following criteria are met:~~
- 19 ~~(A) ☐ The site of the project is not more than four acres in total~~  
20 ~~area.~~
- 21 ~~(B) ☐ If the site is located in a city with a population of more~~  
22 ~~than 200,000 persons, the site is not more than 10 acres in total~~  
23 ~~area, and this site acreage is determined by a resolution of the~~  
24 ~~city council.~~
- 25 ~~(6) ☐ Either of the following criteria are met:~~
- 26 ~~(A) ☐ The project does not contain more than 100 residential~~  
27 ~~units.~~
- 28 ~~(B) ☐ If the site is located in a city with a population of more~~  
29 ~~than 200,000 persons, the project does not contain more than 300~~  
30 ~~residential units and this number of units is determined by a~~  
31 ~~resolution of the city council.~~
- 32 (5) *The site of the project is not more than four acres in total*  
33 *area and the project does not contain more than 100 residential*  
34 *units.*
- 35 (6) *Notwithstanding paragraph (5), if the site is in a city with*  
36 *a population of more than 200,000 persons, the site is not more*  
37 *than 10 acres in total area, the project does not contain less than*  
38 *200 residential units or more than 300 residential units, and the*

1 *city council adopts this allowed site acreage and number of*  
2 *residential units by resolution.*

3 (7) ☐ Either of the following criteria are met:

4 (A) ☐ (i) ☐ At least 10 percent of the housing is sold to families of  
5 moderate income, or not less than 10 percent of the housing is  
6 rented to families of low income, or not less than 5 percent of the  
7 housing is rented to families of very low income.

8 (ii) ☐ The project developer provides sufficient legal  
9 commitments to the appropriate local agency to ensure the  
10 continued availability and use of the housing units for very low,  
11 low ☐, and moderate ☐ income households at monthly housing costs  
12 determined pursuant to paragraph (3) of subdivision (h) of  
13 Section 65589.5 of the Government Code.

14 (B) ☐ The project developer has paid or will pay in ☐ lieu fees  
15 pursuant to a local ordinance in an amount sufficient to result in  
16 the development of an equivalent number of units that would  
17 otherwise be required pursuant to subparagraph (A).

18 (8) ☐ The project is within one ☐ half mile of a major transit stop.

19 (9) ☐ The project does not include any single level building that  
20 exceeds 100,000 square feet.

21 (10) ☐ The project promotes higher density infill housing. A  
22 project with a density of at least 20 units per acre shall be  
23 conclusively presumed to promote higher density infill housing.  
24 A project with a density of at least 10 units per acre and a density  
25 greater than the average density of the residential properties  
26 within 1,500 feet shall be presumed to promote higher density  
27 housing unless the preponderance of the evidence demonstrates  
28 otherwise.

29 (b) ☐ Notwithstanding subdivision (a), this division shall apply  
30 to a development project that meets the criteria described in  
31 subdivision (a), if any of the following occur:

32 (1) ☐ There is a reasonable possibility that the project will have  
33 a project ☐ specific, significant effect on the environment due to  
34 unusual circumstances.

35 (2) ☐ Substantial changes with respect to the circumstances  
36 under which the project is being undertaken that are related to the  
37 project have occurred since community ☐ level environmental  
38 review was certified or adopted.

39 (3) ☐ New information becomes available regarding the  
40 circumstances under which the project is being undertaken and

1 that is related to the project, that was not known, and could not  
2 have been known, at the time that community-level  
3 environmental review was certified or adopted.

4 (c) If a project satisfies the criteria described in subdivision  
5 (a), but is not exempt from this division as a result of satisfying  
6 the criteria described in subdivision (b), the analysis of the  
7 environmental effects of the project in the environmental impact  
8 report or the negative declaration shall be limited to an analysis  
9 of the project-specific effect of the projects and any effects  
10 identified pursuant to paragraph (2) or (3) of subdivision (b).

11 (d) For the purposes of this section, "residential" means a use  
12 consisting of either of the following:

13 (1) Residential units only.

14 (2) Residential units and primarily neighborhood-serving  
15 goods, services, or retail uses that do not exceed 15 percent of the  
16 total floor area of the project.

O

AMENDED IN SENATE MARCH 29, 2005

**SENATE BILL**

**No. 575**

**Introduced by Senators Torlakson, Ducheny, and Dunn**  
**(Coauthor: Senator Alquist)**  
*(Coauthors: Assembly Members Jones and Lieber)*

February 18, 2005

---

An act to amend Section 65589.5 of the Government Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

SB 575, as amended, Torlakson. Housing development projects.

The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low□, or moderate□income households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

The Planning and Zoning Law also requires that in any action to enforce these provisions, if a court finds that the local agency disapproved the project or conditioned its approval without making the required findings or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment to compel compliance with these provisions within 60 days, including an award of reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development, and may issue further orders to ensure that the purposes and policies of these provisions are fulfilled if its order or judgment has not been carried out within the 60□day period.

□

98

000104



This bill would revise the conditions upon which a disapproval or a conditional approval of the housing development project is based. It ~~would also delete that provision that authorizes the court to issue further orders to ensure that the purposes and policies of these provisions are fulfilled and would, instead, authorize the court to vacate the decision of the local agency and direct the local agency to issue any necessary approval or permit to the applicant, as specified. The bill would also require the court to award actual damages to the plaintiff or petitioner who proposed the housing development, except as specified.~~

Vote: ☐ majority. Appropriation: ☐ no. Fiscal committee: ☐ no.  
State ☐ mandated local program: ☐ no.

*The people of the State of California do enact as follows:*

1 SECTION 1. ☐ Section 65589.5 of the Government Code is  
2 amended to read:  
3 65589.5. ☐ (a) ☐ The Legislature finds and declares all of the  
4 following:  
5 (1) ☐ The lack of housing is a critical problem that threatens the  
6 economic, environmental, and social quality of life in California.  
7 (2) ☐ California housing has become the most expensive in the  
8 nation. The excessive cost of the state's housing supply is  
9 partially caused by activities and policies of many local  
10 governments that limit the approval of housing, increase the cost  
11 of land for housing, and require that high fees and exactions be  
12 paid by producers of housing.  
13 (3) ☐ Among the consequences of those actions are  
14 discrimination against low ☐ income and minority households, lack  
15 of housing to support employment growth, imbalance in jobs and  
16 housing, reduced mobility, urban sprawl, excessive commuting,  
17 and air quality deterioration.  
18 (4) ☐ Many local governments do not give adequate attention to  
19 the economic, environmental, and social costs of decisions that  
20 result in disapproval of housing projects, reduction in density of  
21 housing projects, and excessive standards for housing projects.  
22 (b) ☐ It is the policy of the state that a local government not  
23 reject or make infeasible housing developments that contribute to  
24 meeting the housing need determined pursuant to this article  
25 without a thorough analysis of the economic, social, and

1 environmental effects of the action and without complying with  
2 subdivision (d).

3 (c) ~~The~~ Legislature also recognizes that premature and  
4 unnecessary development of agricultural lands for urban uses  
5 continues to have adverse effects on the availability of those  
6 lands for food and fiber production and on the economy of the  
7 state. Furthermore, it is the policy of the state that development  
8 should be guided away from prime agricultural lands; therefore,  
9 in implementing this section, local jurisdictions should  
10 encourage, to the maximum extent practicable, in filling existing  
11 urban areas.

12 (d) ~~A~~ local agency shall not disapprove a housing  
13 development project, including farmworker housing as defined in  
14 subdivision (d) of Section 50199.50 of the Health and Safety  
15 Code, for very low, low ~~or~~ moderate ~~income~~ households or  
16 condition approval, including through the use of design review  
17 standards, in a manner that renders the project infeasible for  
18 development for the use of very low, low ~~or~~ moderate ~~income~~  
19 households unless it makes written findings, based upon  
20 substantial evidence in the record, as to one of the following:

21 (1) ~~The jurisdiction has adopted a housing element pursuant~~  
22 ~~to this article that has been revised in accordance with Section~~  
23 ~~65588 and is in substantial compliance with this article, and the~~  
24 ~~jurisdiction has met or exceeded its share of the regional housing~~  
25 ~~need for very low, low-, and moderate- income housing, as~~  
26 ~~determined pursuant to this article, for the planning period.~~

27 (2) ~~The~~ development project as proposed would have a  
28 specific, adverse impact upon the public health or safety, and  
29 there is no feasible method to satisfactorily mitigate or avoid the  
30 specific adverse impact without rendering the development  
31 unaffordable to low ~~and~~ moderate ~~income~~ households. As used  
32 in this paragraph, a "specific, adverse impact" means a  
33 significant, quantifiable, direct, and unavoidable impact, based  
34 on objective, identified written public health or safety standards,  
35 policies, or conditions as they existed on the date the application  
36 was deemed complete.

37 (2) ~~□ □~~

38 (3) ~~The~~ denial of the project or imposition of conditions is  
39 required in order to comply with specific state or federal law, and  
40 there is no feasible method to comply without rendering the

1 development unaffordable to low□ and moderate□income  
2 households.

3 ~~(3)□□~~

4 (4)□The development project is proposed on land zoned for  
5 agriculture or resource preservation that is surrounded on at least  
6 two sides by land being used for agricultural or resource  
7 preservation purposes, or which does not have adequate water or  
8 wastewater facilities to serve the project.

9 ~~(4)□Except as provided in subparagraphs (A) and (B), the~~

10 (5)□The development project is inconsistent with both the  
11 jurisdiction's zoning ordinance and general plan land use  
12 designation as specified in any element of the general plan as it  
13 existed on the date the application was deemed complete, and the  
14 jurisdiction has adopted a revised housing element in accordance  
15 with Section 65588 that is in substantial compliance with this  
16 article.

17 ~~(A)□This paragraph cannot be utilized to disapprove a housing~~  
18 development project defined in subdivision (a) if the  
19 development project is proposed on a site that is identified as  
20 suitable or available for very low, low□, or moderate□income  
21 households in the jurisdiction's housing element, and consistent  
22 with the density specified in the housing element, even though it  
23 is inconsistent with both the jurisdiction's zoning ordinance and  
24 general plan land use designation.

25 ~~(B)□If the local agency's housing element has neither been~~  
26 ~~self□certified pursuant to Section 65585.1 nor been determined by~~  
27 ~~the department pursuant to Section 65585 to be in substantial~~  
28 ~~compliance with this article based at least in part on the~~  
29 ~~inadequacy of sites to accommodate the community's share of~~  
30 ~~the regional housing need as determined pursuant to Section~~  
31 ~~65584, this subdivision cannot be utilized to disapprove a~~  
32 ~~housing development project defined in subdivision (a) proposed~~  
33 ~~for a parcel designated in any element of the general plan for~~  
34 ~~residential or commercial uses.~~

35 (e)□Nothing in this section shall be construed to relieve the  
36 local agency from complying with the Congestion Management  
37 Program required by Chapter 2.6 (commencing with Section  
38 65088) of Division 1 of Title 7 or the California Coastal Act  
39 (Division 20 (commencing with Section 30000) of the Public  
40 Resources Code). Neither shall anything in this section be

1 construed to relieve the local agency from making one or more of  
2 the findings required pursuant to Section 21081 of the Public  
3 Resources Code or otherwise complying with the California  
4 Environmental Quality Act (Division 13 (commencing with  
5 Section 21000) of the Public Resources Code).

6 (f) ☐ Nothing in this section shall be construed to prohibit a local  
7 agency from requiring the development project to comply with  
8 objective, quantifiable, written development standards,  
9 conditions, and policies appropriate to, and consistent with,  
10 meeting the jurisdiction's share of the regional housing need  
11 pursuant to Section 65584. However, the development standards,  
12 conditions, and policies shall be applied to facilitate and  
13 accommodate development at the density permitted on the site  
14 and proposed by the development project. Nothing in this section  
15 shall be construed to prohibit a local agency from imposing fees  
16 and other exactions otherwise authorized by law that are essential  
17 to provide necessary public services and facilities to the  
18 development project.

19 (g) ☐ This section shall be applicable to charter cities because  
20 the Legislature finds that the lack of housing is a critical  
21 statewide problem.

22 (h) ☐ The following definitions apply for the purposes of this  
23 section:

24 (1) ☐ "Feasible" means capable of being accomplished in a  
25 successful manner within a reasonable period of time, taking into  
26 account economic, environmental, social, and technological  
27 factors.

28 (2) ☐ "Housing development project" means a use consisting of  
29 either of the following:

30 (A) ☐ Residential units only.

31 (B) ☐ Mixed ☐ use developments consisting of residential and  
32 nonresidential uses in which nonresidential uses are limited to  
33 neighborhood commercial uses and to the first floor of buildings  
34 that are two or more stories. As used in this paragraph,  
35 "neighborhood commercial" means small ☐ scale general or  
36 specialty stores that furnish goods and services primarily to  
37 residents of the neighborhood.

38 (3) ☐ "Housing for very low, low ☐, or moderate ☐ income  
39 households" means that either (A) at least 20 percent of the total  
40 units shall be sold or rented to lower income households, as

1 defined in Section 50079.5 of the Health and Safety Code, or (B)  
2 100 percent of the units shall be sold or rented to  
3 moderate-income households as defined in Section 50093 of the  
4 Health and Safety Code, or middle-income households, as  
5 defined in Section 65008 of this code. Housing units targeted for  
6 lower income households shall be made available at a monthly  
7 housing cost that does not exceed 30 percent of 60 percent of  
8 area median income with adjustments for household size made in  
9 accordance with the adjustment factors on which the lower  
10 income eligibility limits are based. Housing units targeted for  
11 persons and families of moderate income shall be made available  
12 at a monthly housing cost that does not exceed 30 percent of 100  
13 percent of area median income with adjustments for household  
14 size made in accordance with the adjustment factors on which the  
15 moderate income eligibility limits are based.

16 (4) "Area median income" means area median income as  
17 periodically established by the Department of Housing and  
18 Community Development pursuant to Section 50093 of the  
19 Health and Safety Code. The developer shall provide sufficient  
20 legal commitments to ensure continued availability of units for  
21 very low or low-income households in accordance with the  
22 provisions of this subdivision for 30 years.

23 (5) "Neighborhood" means a planning area commonly  
24 identified as such in a community's planning documents, and  
25 identified as a neighborhood by the individuals residing and  
26 working within the neighborhood. Documentation demonstrating  
27 that the area meets the definition of neighborhood may include a  
28 map prepared for planning purposes which lists the name and  
29 boundaries of the neighborhood.

30 (6) "Disapprove the development project" includes any  
31 instance in which a local agency does either of the following:

32 (A) "Votes on a proposed housing development project  
33 application and the application is disapproved.

34 (B) "Fails to comply with the time periods specified in  
35 subparagraph (B) of paragraph (1) of subdivision (a) of Section  
36 65950. An extension of time pursuant to Article 5 (commencing  
37 with Section 65950) shall be deemed to be an extension of time  
38 pursuant to this paragraph.

39 (i) "If any city, county, or city and county denies approval or  
40 imposes restrictions, including design changes, a reduction of

1 allowable densities or the percentage of a lot that may be  
2 occupied by a building or structure under the applicable planning  
3 and zoning in force at the time the application is deemed  
4 complete pursuant to Section 65943, that have a substantial  
5 adverse effect on the viability or affordability of a housing  
6 development for very low, low□, or moderate□ income households,  
7 and the denial of the development or the imposition of  
8 restrictions on the development is the subject of a court action  
9 which challenges the denial, then the burden of proof shall be on  
10 the local legislative body to show that its decision is consistent  
11 with the findings as described in subdivision (d) and that the  
12 findings are supported by substantial evidence in the record.

13 (j)□ When a proposed housing development project complies  
14 with applicable, objective general plan and zoning standards and  
15 criteria, including design review standards, in effect at the time  
16 that the housing development project's application is determined  
17 to be complete, but the local agency proposes to disapprove the  
18 project or to approve it upon the condition that the project be  
19 developed at a lower density, the local agency shall base its  
20 decision regarding the proposed housing development project  
21 upon written findings supported by substantial evidence on the  
22 record that both of the following conditions exist:

23 (1)□ The housing development project would have a specific,  
24 adverse impact upon the public health or safety unless the project  
25 is disapproved or approved upon the condition that the project be  
26 developed at a lower density. As used in this paragraph, a  
27 "specific, adverse impact" means a significant, quantifiable,  
28 direct, and unavoidable impact, based on objective, identified  
29 written public health or safety standards, policies, or conditions  
30 as they existed on the date the application was deemed complete.

31 (2)□ There is no feasible method to satisfactorily mitigate or  
32 avoid the adverse impact identified pursuant to paragraph (1),  
33 other than the disapproval of the housing development project or  
34 the approval of the project upon the condition that it be  
35 developed at a lower density.

36 (k)□ If in any action brought to enforce the provisions of this  
37 section, a court finds that the local agency disapproved a project  
38 or conditioned its approval in a manner rendering it infeasible for  
39 the development of housing for very low, low□, or  
40 moderate□ income households, including farmworker housing,

1 without making the findings required by this section or without  
2 making sufficient findings supported by substantial evidence, the  
3 court shall issue an order or judgment compelling compliance  
4 with this section within 60 days, including, but not limited to, an  
5 order that the local agency take action on the development  
6 project. The court shall retain jurisdiction to ensure that its order  
7 or judgment is carried out and shall award reasonable attorney's  
8 fees, ~~actual damages~~, and costs of suit to the plaintiff or  
9 petitioner who proposed the housing development, except under  
10 extraordinary circumstances in which the court finds that  
11 awarding fees ~~or damages~~ would not further the purposes of this  
12 section. If the court determines that its order or judgment has not  
13 been carried out within 60 days, the court may ~~vacate the~~  
14 ~~decision of the local agency and direct the local agency to issue~~  
15 ~~any necessary approval or permit to the applicant. The local~~  
16 ~~agency shall carry out the order of the court within 30 days of its~~  
17 ~~entry and, upon failure to do so, the order of the court shall for all~~  
18 ~~purposes, be deemed to be the action of the local agency, unless~~  
19 ~~the applicant consents to a different decision or order by the local~~  
20 ~~agency. issue further orders as provided by law to ensure that the~~  
21 *purposes and policies of this section are fulfilled.*

22 (l) ☐ ☒ any action, the record of the proceedings before the local  
23 agency shall be filed as expeditiously as possible and,  
24 notwithstanding Section 1094.6 of the Code of Civil Procedure,  
25 all or part of the record may be filed (1) by the petitioner with the  
26 petition or petitioner's points and authorities, (2) by the  
27 respondent with respondent's points and authorities, (3) after  
28 payment of costs by the petitioner, or (4) as otherwise directed by  
29 the court. If the expense of preparing the record has been borne  
30 by the petitioner and the petitioner is the prevailing party, the  
31 expense shall be taxable as costs.

O

AMENDED IN SENATE APRIL 12, 2005  
AMENDED IN SENATE MARCH 29, 2005

**SENATE BILL**

**No. 521**

**Introduced by Senator Torlakson**

February 18, 2005

---

An act to amend Sections 65460.2 and 65460.4 of the Government Code, and to amend Sections 33031 and 33320.1 of, and to add Section 33032 to, the Health and Safety Code, relating to transit village plans.

LEGISLATIVE COUNSEL'S DIGEST

SB 521, as amended, Torlakson. Local planning: transit village plans.

The Transit Village Development Planning Act of 1994 authorizes a city or county to prepare a transit village plan for a transit village development district that includes all land within not more than  $\frac{1}{4}$  mile of the exterior boundary of the parcel on which is located a transit station, as defined, and addresses specified characteristics, including a neighborhood centered around a transit station and a mix of housing types, including apartments, that is planned and designed, as specified, and any 5 of demonstrable public benefits that reduce traffic congestion.

The Community Redevelopment Law specifies both the physical and economic conditions that cause blight.

This bill would require a transit village plan to include a transit station and parcels at least a portion of which are within not more than  $\frac{1}{4}$  mile of the exterior boundary of the parcel on which the transit station is located or parcels located in an area equal to the area encompassed by a ~~one~~  $\frac{1}{4}$  mile radius from the exterior boundary of the parcel on which the station is located. The bill would require a

□



city or county to allow “use by right” ~~on each parcel~~ within a transit village development district *established pursuant to a transit village plan adopted on or after January 1, 2006.*

The bill would, additionally, define an economic condition of blight for purposes of the Community Redevelopment Law to include the lack of high density development within a transit village development district and would specify requirements to be met by a local agency that relies on this condition to redevelop a project area that is also a transit village development district. ~~The bill would exempt this project area from the requirement that it be characterized as predominantly urbanized.~~

The bill would require the redevelopment agency to submit the proposed redevelopment plan ordinance to the California Infrastructure and Economic Development Bank for review and approval and would prohibit the bank from approving new project areas pursuant to these provisions after December 31, 2012. *The bill would exempt this project area from the requirement that it be characterized as predominantly urbanized if the California Infrastructure and Economic Development Bank makes a specified finding as part of its approval of the redevelopment plan ordinance.*

The bill would require the redevelopment agency to procure an independent study on compliance with these provisions and the effectiveness of the project area in fulfilling the intent and substance of the Transit Village Planning Development Act. The bill would require the study to be submitted to the Legislature and the California Infrastructure and Economic Development Bank by December 31, 2011.

Vote: ☐ majority. Appropriation: ☐ no. Fiscal committee: ☐ yes.  
State ☐ mandated local program: ☐ no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. ☐ Section 65460.2 of the Government Code is
- 2 amended to read:
- 3 65460.2. ☐ A city or county may prepare a transit village plan
- 4 for a transit village development district that addresses the
- 5 following characteristics:
- 6 (a) ☐ A neighborhood centered around a transit station that is
- 7 planned and designed so that residents, workers, shoppers, and
- 8 others find it convenient and attractive to patronize transit.

- 1 (b) ☐ A mix of housing types, including apartments.  
2 (c) ☐ Other land uses, including a retail district oriented to the  
3 transit station and civic uses, including day care centers and  
4 libraries.  
5 (d) ☐ Pedestrian and bicycle access to the transit station, with  
6 attractively designed and landscaped pathways.  
7 (e) ☐ A transit system that should encourage and facilitate  
8 intermodal service, and access by modes other than single  
9 occupant vehicles.  
10 (f) ☐ Demonstrable public benefits beyond the increase in transit  
11 usage, including any five of the following:  
12 (1) ☐ Relief of traffic congestion.  
13 (2) ☐ Improved air quality.  
14 (3) ☐ Increased transit revenue yields.  
15 (4) ☐ Increased stock of affordable housing.  
16 (5) ☐ Redevelopment of depressed and marginal inner-city  
17 neighborhoods.  
18 (6) ☐ Live travel options for transit-needy groups.  
19 (7) ☐ Promotion of infill development and preservation of  
20 natural resources.  
21 (8) ☐ Promotion of a safe, attractive, pedestrian-friendly  
22 environment around transit stations.  
23 (9) ☐ Reduction of the need for additional travel by providing for  
24 the sale of goods and services at transit stations.  
25 (10) ☐ Promotion of job opportunities.  
26 (11) ☐ Improved cost-effectiveness through the use of the  
27 existing infrastructure.  
28 (12) ☐ Increased sales and property tax revenue.  
29 (13) ☐ Reduction in energy consumption.  
30 (g) ☐ Sites where a density bonus of at least 25 percent may be  
31 granted pursuant to specified performance standards.  
32 (h) ☐ Other provisions that may be necessary, based on the  
33 report prepared pursuant to subdivision (b) of former Section  
34 14045, as enacted by Section 3 of Chapter 1304 of the Statutes of  
35 1990.  
36 ~~(i) ☐ Within the transit village development district, the city or~~  
37 ~~county shall allow "use by right" on each parcel, as defined in~~  
38 ~~subdivision (i) of Section 65583.2.~~  
39 (i) *Within a transit village development district established*  
40 *pursuant to a transit village plan adopted on or after January 1,*

1 2006, the city and county shall allow "use by right," as defined  
2 in subdivision (i) of Section 65583.2, for multifamily residential  
3 uses on each parcel designated for multifamily residential  
4 development.

5 SEC. 2. Section 65460.4 of the Government Code is amended  
6 to read:

7 65460.4. A transit village development district shall include a  
8 transit station and either of the following:

9 (a) Any contiguous or noncontiguous parcels, at least a portion  
10 of which is located within one-quarter mile of the exterior  
11 boundary of the parcel on which the station is located.

12 (b) Any contiguous parcels located in an area equal to the area  
13 encompassed by a one-quarter-mile radius from the exterior  
14 boundary of the parcel on which the station is located.

15 SEC. 3. Section 33031 of the Health and Safety Code is  
16 amended to read:

17 33031. (a) This subdivision describes physical conditions  
18 that cause blight:

19 (1) Buildings in which it is unsafe or unhealthy for persons to  
20 live or work. These conditions can be caused by serious building  
21 code violations, dilapidation and deterioration, defective design  
22 or physical construction, faulty or inadequate utilities, or other  
23 similar factors.

24 (2) Factors that prevent or substantially hinder the  
25 economically viable use or capacity of buildings or lots. This  
26 condition can be caused by a substandard design, inadequate size  
27 given present standards and market conditions, lack of parking,  
28 or other similar factors.

29 (3) Adjacent or nearby uses that are incompatible with each  
30 other and which prevent the economic development of those  
31 parcels or other portions of the project area.

32 (4) The existence of subdivided lots of irregular form and  
33 shape and inadequate size for proper usefulness and development  
34 that are in multiple ownership.

35 (b) This subdivision describes economic conditions that cause  
36 blight:

37 (1) Depreciated or stagnant property values or impaired  
38 investments, including, but not necessarily limited to, those  
39 properties containing hazardous wastes that require the use of

1 agency authority as specified in Article 12.5 (commencing with  
2 Section 33459).

3 (2) ☐ Abnormally high business vacancies, abnormally low lease  
4 rates, high turnover rates, abandoned buildings, or excessive  
5 vacant lots within an area developed for urban use and served by  
6 utilities.

7 (3) ☐ Lack of necessary commercial facilities that are normally  
8 found in neighborhoods, including grocery stores, drug stores,  
9 and banks and other lending institutions.

10 (4) ☐ Residential overcrowding or an excess of bars, liquor  
11 stores, or other businesses that cater exclusively to adults, that  
12 has led to problems of public safety and welfare.

13 (5) ☐ A high crime rate that constitutes a serious threat to the  
14 public safety and welfare.

15 (6) ☐ Lack of high density development within a transit village  
16 development district adopted pursuant to Article 8.5  
17 (commencing with Section 65460) of Chapter 3 of Title 1 of  
18 Division 7 of the Government Code.

19 SEC. 4. ☐ Section 33032 is added to the Health and Safety  
20 Code, to read:

21 33032. ☐ If an agency seeks pursuant to subdivision (b) of  
22 Section 33031 to demonstrate the economic conditions that cause  
23 blight by relying on the lack of high density development within  
24 a transit village development district pursuant to paragraph (6) of  
25 that subdivision, all of the following requirements shall be met:

26 (a) ☐ The project area shall include a rail transit service provided  
27 by one of the following agencies:

28 (1) ☐ Caltrain, as defined in Section 99602 of the Public Utilities  
29 Code.

30 (2) ☐ Capitol Corridor Joint Powers Authority.

31 (3) ☐ Los Angeles County Metropolitan Transit District.

32 (4) ☐ North San Diego County Transit District.

33 (5) ☐ San Diego Metropolitan Transit Development Board and  
34 its subsidiaries.

35 (6) ☐ Sacramento Regional Transit District.

36 (7) ☐ San Francisco Bay Area Rapid Transit District.

37 (8) ☐ San Francisco Municipal Railway.

38 (9) ☐ San Joaquin Regional Rail Commission.

39 (10) ☐ Santa Clara Valley Transportation Agency.

40 (11) ☐ Southern California Regional Rail Authority.

1 (b) ☐ The project area shall include a rail transit station and  
2 either of the following:

3 (1) ☐ Any contiguous or noncontiguous parcels, at least a portion  
4 of which are located within one-quarter mile of the exterior  
5 boundary of the parcel on which the station is located.

6 (2) ☐ Any contiguous parcels located in an area equal to the area  
7 encompassed by a one-quarter-mile radius from the exterior  
8 boundary of the parcel on which the station is located.

9 (c) ☐ The community shall adopt a transit village plan pursuant  
10 to the Transit Village Development Planning Act of 1994, Article  
11 8.5 (commencing with Section 65460) of Chapter 3 of Division 1  
12 of Title 7 of the Government Code, that covers the same area,  
13 and the transit village plan shall permit a significantly higher  
14 density of development than the development that currently  
15 exists in the area.

16 (d) ☐ Notwithstanding any other section, *if the California*  
17 *Infrastructure and Economic Development Bank finds, as part of*  
18 *its approval pursuant to subdivision (f), that the property within*  
19 *the transit village development district cannot reasonably be*  
20 *expected to be developed for the uses and at the densities*  
21 *established by the transit village plan by private enterprise or*  
22 *government action, or both, without redevelopment, a project*  
23 *area subject to this section is not required to be characterized as*  
24 *predominantly urbanized, as that term is defined in subdivision*  
25 *(b) of Section 33320.1.*

26 (e) ☐ The regional transit provider that operates the rail transit  
27 station shall adopt a resolution approving the proposed project  
28 area.

29 (f) ☐ (1) The agency shall submit the proposed ordinance to the  
30 California Infrastructure and Economic Development Bank for  
31 review and approval. The bank may circulate the proposed  
32 ordinance to other state agencies, including, but not limited to,  
33 the Department of Finance, the Department of Housing and  
34 Community Development, and the Office of Planning and  
35 Research, and solicit their comments and recommendations.  
36 After considering the comments and recommendations of other  
37 state agencies, the bank shall take one of the following actions:

38 (A) ☐ Approve the proposed redevelopment plan if the bank  
39 makes a finding, based on substantial evidence in the record, that  
40 the proposed redevelopment plan is consistent with both the

1 requirements of this section, Section 33030, and with the state  
2 planning priorities in Section 65041.1 of the Government Code.

3 (B) ~~Return the proposed redevelopment plan to the agency~~  
4 ~~with specific recommendations for changes that would allow the~~  
5 ~~bank to approve the plan.~~

6 (2) ~~The bank shall have 30 days from the receipt of the~~  
7 ~~proposed redevelopment plan to act pursuant to paragraph (1). If~~  
8 ~~the bank does not act within 30 days, the proposed~~  
9 ~~redevelopment plan shall be deemed approved.~~

10 (3) ~~The bank shall not approve any new project area pursuant~~  
11 ~~to this section after December 31, 2012.~~

12 ~~(g) The agency may not utilize paragraph (1) of subdivision~~  
13 ~~(g) of Section 33334.1 with regard to the project area.~~

14 (g) (1) *The agency shall expend, within the project area, all*  
15 *funds that are derived from the project area and deposited in the*  
16 *Low and Moderate Income Housing Fund.*

17 (2) *The agency shall meet any replacement housing obligation*  
18 *pursuant to Section 33413 within the project area.*

19 (h) ~~For the purposes of pooling housing funds pursuant to~~  
20 ~~Section 33334.25, the agency may act as a "receiving entity" but~~  
21 ~~may only transfer housing funds from the project area with the~~  
22 ~~approval of the board of directors of the regional transit provider~~  
23 ~~upon certification that the pooled funds will be used in another~~  
24 ~~project area created pursuant to this section that includes a rail~~  
25 ~~transit station operated by the same regional transit provider..~~

26 (i) ~~The agency shall procure an independent study to~~  
27 ~~document compliance with this section and the effectiveness of~~  
28 ~~the project area in fulfilling the intent and substance of the~~  
29 ~~Transit Village Planning Development Act. Notwithstanding~~  
30 ~~Section 7550.5 of the Government Code, the study shall be~~  
31 ~~presented to the Legislature and the California Infrastructure and~~  
32 ~~Economic Development Bank by December 31, 2011.~~

33 SEC. 5. ~~Section 33320.1 of the Health and Safety Code is~~  
34 ~~amended to read:~~

35 33320.1. (a) ~~"Project area" means, except as provided in~~  
36 ~~Section 33032, 33320.2, 33320.3, 33320.4, or 33492.3, a~~  
37 ~~predominantly urbanized area of a community which is a~~  
38 ~~blighted area, the redevelopment of which is necessary to~~  
39 ~~effectuate the public purposes declared in this part, and which is~~  
40 ~~selected by the planning commission pursuant to Section 33322.~~

- 1 (b) ~~As~~ used in this section, "predominantly urbanized" means  
2 that not less than 80 percent of the land in the project area:  
3 (1) ~~Has~~ been or is developed for urban uses; or  
4 (2) ~~Is~~ characterized by the condition described in paragraph  
5 (4) of subdivision (a) of Section 33031; or  
6 (3) ~~Is~~ an integral part of one or more areas developed for urban  
7 uses which are surrounded or substantially surrounded by parcels  
8 which have been or are developed for urban uses. Parcels  
9 separated by only an improved right ~~of~~ way shall be deemed  
10 adjacent for the purpose of this subdivision.
- 11 (c) ~~For~~ the purposes of this section, a parcel of property as  
12 shown on the official maps of the county assessor is developed if  
13 that parcel is developed in a manner which is either consistent  
14 with zoning or is otherwise permitted under law.
- 15 (d) ~~The~~ requirement that a project be predominantly urbanized  
16 shall apply only to a project area for which a final redevelopment  
17 plan is adopted on or after January 1, 1984, or to an area which is  
18 added to a project area by an amendment to a redevelopment  
19 plan, which amendment is adopted on or after January 1, 1984.

AMENDED IN SENATE MAY 9, 2005  
AMENDED IN SENATE APRIL 20, 2005  
AMENDED IN SENATE FEBRUARY 23, 2005

**SENATE BILL**

**No. 44**

**Introduced by Senator Kehoe**

January 4, 2005

---

An act to amend Section 65302.1 of the Government Code, relating to general plans.

LEGISLATIVE COUNSEL'S DIGEST

SB 44, as amended, Kehoe. General plans: air quality element.

Existing law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and of any land outside its boundaries that bears relation to its planning. The law requires the plan to include a specified land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, and other categories of public and private uses of land. Existing law specifically requires the legislative body of each city and county within the jurisdictional boundaries of the San Joaquin Valley Air Pollution Control District to amend appropriate elements of its general plan to include specified information to improve air quality, including a report describing local air quality conditions.

This bill would make a legislative finding that air pollution is a serious problem in this state. The bill would require the legislative body of each city and county, ~~including those in the San Joaquin Valley Air Pollution Control District,~~ *located in specified areas* to either adopt an air quality element as part of its general plan, as

□



*specified, or amend the appropriate elements of its general plan to include data and analysis, comprehensive goals, policies, and feasible implementation strategies intended to contribute to and complement other local, regional, state, and federal strategies to improve air quality no later than one year from the date specified for the next revision of its housing element that occurs after January 1, 2007. The bill would require that the report be based on information provided by the air pollution control district or air quality management district in which the city or county is located all other cities and counties to comply with these provisions, as specified, during their next general plan update but no later than the date specified for the 5th revision of their housing element that occurs after January 1, 2007.*

The bill would also require each city and county, at least 45 days prior to the adoption of an air quality element or the amendment of a general plan, to send a copy of the draft document to the air quality management district or air pollution control district in which it is located for review, comment, and recommendations, as specified. A city or county that adopts an air quality element or amendments to its general plan prior to January 1, 2007, shall be deemed to have met the requirements of the bill, if the city or county makes a specified written finding. By increasing the duties of local public officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: ☐majority. Appropriation: ☐no. Fiscal committee: ☐yes.  
State-mandated local program: ☐yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. ☐Section 65302.1 of the Government Code is
- 2 amended to read:
- 3 65302.1. ☐ (a) ☐The Legislature finds and declares all of the
- 4 following:
- 5 (1) ☐That California has a serious air pollution problem that is
- 6 the result of many factors, including pollution from both mobile
- 7 and stationary sources. The ongoing problem of air pollution has

1 had a significant impact on public health. According to the  
2 California Air Resources Board, over 90 percent of Californians  
3 breathe unhealthy levels of one or more air pollutants during  
4 some part of the year. The health effects of some of these  
5 common pollutants include respiratory disease, lung damage,  
6 premature deaths, cancer, reduced mental alertness, neurological  
7 and reproductive disorders, chronic eye, lung, or skin irritation,  
8 chest pain, headaches, and nausea. In addition, air pollution can  
9 and does have a serious impact on California's economy and can  
10 result in the loss of federal funding for transportation projects  
11 important to a thriving state economy. Solving this problem  
12 requires the cooperation of land use and transportation planning  
13 agencies, transit operators, the business and development  
14 communities, air quality management districts, air pollution  
15 control districts, and the public.

16 (2) ☐ The regulation of air quality is generally the responsibility  
17 of regional, state, and federal agencies who, through their efforts  
18 and responsibility to establish and enforce policies such as auto  
19 emission standards and permits, require the best available control  
20 technology on stationary sources.

21 (3) ☐ Many of the sources of air pollution are a result of actions,  
22 uses, and sources over which cities and counties have no control.  
23 These include, but are not limited to, the following:

24 (A) ☐ Air pollutants transported from other communities or other  
25 air basins.

26 (B) ☐ State or federal highways.

27 (C) ☐ Emissions from powerplants and other large stationary  
28 sources that are regional in nature and which are regulated by  
29 state or federal agencies.

30 (D) ☐ Emissions from railroads, ports, airports, and other  
31 federally regulated sources.

32 (E) ☐ Emissions from stationary sources, which are regulated by  
33 local air pollution control districts and air quality management  
34 districts.

35 (F) ☐ Existing land use and transportation patterns.

36 (G) ☐ Emissions from mobile sources, whose emission standards  
37 are regulated by the state and federal governments.

38 (H) ☐ Pollutants generated by agricultural activity.

39 (4) ☐ The Legislature recognizes that, in making local planning  
40 and land use decisions, cities and counties must balance air

1 quality with other state and local policies and priorities, such as  
2 promoting housing development, the protection and conservation  
3 of farmland, natural resources, and open space, the avoidance of  
4 natural hazards, the promotion of job growth and economic  
5 development, and other issues of local, regional, and statewide  
6 importance.

7 (5) ☐ The Legislature further recognizes that, in making local  
8 planning and land use decisions, cities and counties should adopt  
9 policies and strategies to improve air quality in their  
10 communities. These policies and strategies may include, where  
11 feasible, encouraging infill development and efficient  
12 development patterns by ensuring all of the following:

13 (A) ☐ That any infrastructure associated with development that  
14 is not infill supports new development that uses land efficiently.

15 (B) ☐ That the development is built adjacent to existing  
16 developed areas to the extent consistent with state planning  
17 priorities to protect environmental and agricultural resources.

18 (C) ☐ That the development is located in an area appropriately  
19 planned for growth.

20 (D) ☐ That the development is served by adequate transportation  
21 and other essential utilities and services.

22 (E) ☐ That the development minimizes ongoing costs to  
23 taxpayers.

24 (b) ☐ The legislative body of each city and county shall either  
25 adopt an air quality element as part of its general plan or amend  
26 the appropriate elements of its general plan, which may include,  
27 but are not limited to, the required elements dealing with land  
28 use, circulation, housing, conservation, and open space, to  
29 include data and analyses, goals, policies, and objectives, and  
30 feasible implementation strategies intended to contribute to and  
31 complement other local, regional, state, and federal strategies to  
32 improve air quality.

33 (c) ☐ The adoption of an air quality element or the amendment  
34 of a general plan to comply with the requirements of subdivision  
35 (b) shall include all of the following:

36 (1) ☐ A report describing local air quality conditions including  
37 air quality monitoring data, emission inventories, lists of  
38 significant source categories, attainment status and designations,  
39 and applicable state and federal air quality plans and  
40 transportation plans. This report shall include a summary of

1 local, district, state, and federal policies, programs, and  
2 regulations that may improve air quality in the city or county.  
3 The city or county shall base this report on information provided  
4 to the city or county by the air pollution control district or air  
5 quality management district in which the city or county is  
6 located.

7 (2) ☐ ☐ comprehensive set of goals, policies, and objectives that  
8 contribute to and complement other federal, state, regional, and  
9 local strategies to improve air quality.

10 (3) ☐ ☐ set of feasible implementation measures designed to  
11 carry out those goals, policies, and objectives.

12 (d) ☐ ☐ The adoption of an air quality element or the amendment  
13 of a general plan to comply with the requirements of subdivision  
14 (g) shall not prohibit cities and counties from encouraging the  
15 phasing in of a development, comprehensive planning, or a  
16 mixed ☐ use development, including residential developments near  
17 transit centers to reduce traffic congestion and provide housing  
18 near these transit centers.

19 (e) ☐ ☐ At least 45 days prior to the adoption of an air quality  
20 element or the amendment of a general plan pursuant to this  
21 section, each city and county shall send a copy of its draft  
22 document to the air quality management district or air pollution  
23 control district in which the city or county is located. The district  
24 may review the draft elements or draft amendments to determine  
25 whether they will contribute to improved air quality in the  
26 planning area. Within 30 days of receiving the draft elements or  
27 draft amendments, the district shall send any comments and  
28 recommendations to the city or county. The legislative body of  
29 the city or county shall consider the district's comments and  
30 recommendations prior to the final adoption of air quality  
31 amendments to the general plan. If the district's comments and  
32 recommendations are not available by the time scheduled for the  
33 final adoption of the air quality element or amendments to the  
34 general plan, the legislative body of the city or county may act  
35 without them. The district's comments and recommendations  
36 shall be advisory to the city or county.

37 (f) ☐ ☐ ☐ The legislative body of each city and county within the  
38 jurisdictional boundaries of the San Joaquin Valley Air Pollution  
39 Control District shall comply with this section no later than one

1 year from the date specified in Section 65588 for the next  
2 revision of its housing element that occurs after January 1, 2004.

3 (2) ~~The legislative bodies of all other cities and counties the~~  
4 *cities and counties located within the Sacramento Valley Air*  
5 *Basin, the San Francisco Bay Area Air Basin, the South Central*  
6 *Coast Air Basin, the South Coast Air Basin, the San Diego Air*  
7 *Basin, and the Salton Sea Air Basin as designated by the*  
8 *California Air Resources Board,* shall comply with this section  
9 no later than one year from the date specified in Section 65588  
10 for the next revision of its housing element that occurs after  
11 January 1, 2007.

12 (3) *The legislative bodies of all other cities and counties shall*  
13 *comply with this section during their next general plan update,*  
14 *but no later than one year from the date specified in Section*  
15 *65588 for the fifth revision of its housing element that occurs*  
16 *after January 1, 2007. These local agencies, in consultation with*  
17 *their local air districts, shall only be required to address those*  
18 *nonattainment criteria pollutants attributed to sources within*  
19 *their jurisdiction in a manner relative to their air quality*  
20 *problem as identified by data and information and appropriate to*  
21 *their area.*

22 (g) ~~A~~ city or county that has adopted an air quality element or  
23 amendments to its general plan to address air quality, prior to  
24 January 1, 2007, shall be deemed to have met the requirements of  
25 this section if the city or county makes a written finding that the  
26 element or amendments have addressed local air quality issues  
27 that are substantially consistent with the objectives of this  
28 section.

29 (h) ~~The~~ Legislature does not intend that cities and counties, in  
30 implementing this section, duplicate actions that are the  
31 responsibility of the air quality management districts, air  
32 pollution control districts, or metropolitan planning  
33 organizations.

34 SEC. 2. ~~Nothing~~ in this act shall be interpreted to expand the  
35 application of the California Environmental Quality Act  
36 (Division 13 (commencing with Section 21000) of the Public  
37 Resources Code), the existing authorities of the affected local  
38 governments, or any air quality management district or air  
39 pollution control district.

1 SEC. 3. □The Legislature finds and declares that Sections  
2 65104 and 66014 of the Government Code provide local agencies  
3 with authority to levy fees sufficient to pay for the program or  
4 level of service mandated by this act.

5 SEC. 4. □No reimbursement is required by this act pursuant to  
6 Section 6 of Article XIII B of the California Constitution because  
7 a local agency or school district has the authority to levy service  
8 charges, fees, or assessments sufficient to pay for the program or  
9 level of service mandated by this act, within the meaning of  
10 Section 17556 of the Government Code.

O